

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NORTHEASTERN DIVISION

JOHN E. CARTER	]	
Petitioner,	]	
	]	
v.	]	No. 2:12-0029
	]	Judge Sharp
DAVID SEXTON, WARDEN	]	
Respondent.	]	

O R D E R

The petitioner brought this action *pro se* "for relief from state court judgments and detention" pursuant to 28 U.S.C. § 1651 (All Writs Act) and 28 U.S.C. § 2241. More specifically, the petitioner is attempting to challenge the legality of two 1983 White County convictions for first degree murder.

Upon review of the petition (Docket Entry No.1), the Court determined that this action should more properly be characterized as a habeas corpus petition brought pursuant to 28 U.S.C. § 2254. Accordingly, an order (Docket Entry No.9) was entered granting the petitioner an opportunity to show cause why his petition should not be recharacterized as such.

Presently before the Court is the petitioner's response (Docket Entry No.13) in opposition to characterizing his petition as one raised pursuant to 28 U.S.C. § 2254.

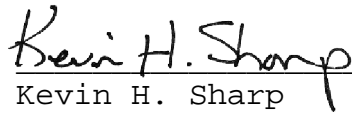
The petitioner is clearly attacking the imposition of his

murder convictions. He has shown no reason why this challenge of those convictions should not be properly raised within the context of 28 U.S.C. § 2254. Therefore, the petitioner's response to the show cause order is rejected and the Court hereby construes this action as a § 2254 habeas corpus petition.

The petitioner has already attacked the 1983 White County first degree murder convictions at least once before in an earlier § 2254 action.<sup>1</sup> Before a second or successive petition may be adjudicated in the district court, the petitioner must move in the appropriate court of appeals for an order authorizing the district court to consider the petition. 28 U.S.C. § 2244(b)(3)(A). Apparently, the petitioner has not yet sought and obtained the authorization from the Sixth Circuit Court of Appeals needed for this Court to consider his current petition.

Accordingly, the Clerk shall TRANSFER this case to the Sixth Circuit Court of Appeals for further consideration. 28 U.S.C. § 1631; In re: Sims, 111 F.3d 45, 47 (6<sup>th</sup> Cir.1997).

It is so ORDERED.

  
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Kevin H. Sharp  
United States District Judge

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<sup>1</sup> John E. Carter v. Neil Rone, No.3:90-0780 (M.D. Tenn.) (dismissed on the merits on 2/22/93); *aff'd* 1993 WL 498200 (6th Cir. (Tenn.)).